

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated March 1, 2005.

The specification has been objected to and claims 1-29, 34-43 and 46-57 have been rejected under the first paragraph of 35 U.S.C. § 112, vis-à-vis 35 U.S.C. §132, which stipulates that no new matter may be entered by way of amendment.

The specification has been amended, and claims 1-14, 34, and 49-51 have been amended.

The Applicant respectfully submits that these amendments make explicit that which the Applicant believed to be already implicit and are not, therefore, made for purposes related to patentability.

Applicant respectfully maintains that the specification, as originally filed, fully supports the amendments to the specification and claims previously filed by the Applicant on May 6, 2004, and that no new matter was added thereby. Nevertheless, in view of the Examiner's persistent objection, the Applicant has deleted the paragraph previously inserted by the May 6, 2004 amendment, and has further made corresponding changes to the claims. Accordingly, reconsideration is requested.

The Office Action mentions in several instances the taking "official notice" of well established facts in the industry. While the Applicant does not necessarily agree that taking official notice is appropriate with respect to specific claimed elements that are not shown in the prior art of record, it is nonetheless correct that license managers and software products are interrelated and very well known. License managers control access to software products.

Claim 1, as amended, defines a "data reporting system" that includes a "knowledge base facility" comprising two databases. One respective database holds an "inventory list" of "software product data records" and the other respective database holds "software agreement records." A "linking facility" links corresponding records from the two respective databases, and a "query tool" "receives and acts on queries from a user for linked data records." Further, a "data outputting facility" "outputs said linked data records." The data reporting system of claim 1 is operable "to display and report" records from the data outputting facility. The data reporting system is "not operable to affect operation of any software product identified by the linked data

records.” The remaining independent claims of the present patent application include functionally similar limitations.

In view of the amendments, the Applicant respectfully requests that the Examiner reconsider and rescind the objection to the specification and the claims including under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §132.

Substantively claims 1-8, 10, 12, 14-25, 27, 28, 34-41, 48 and 56 stand rejected on grounds of anticipation by Franklin (6,105,069). Further, claims 9 and 29 stand rejected under grounds of obviousness over Franklin. Still further, claims 11, 13, 26, 46, 47, 50-52, 54 and 55 stand rejected on the grounds of obviousness over Franklin, in view of Mangat (6,049,799). Claims 42 and 43 are being rejected for obviousness over Franklin and Todd (5,867,714). Claims 49 and 53 are being rejected for obviousness over Franklin and Todd, in further view of Elmasri "Fundamentals of Database Design". Lastly, claim 57 is being rejected on the grounds of obviousness over Franklin, in view of Melchione (5,930,764). It is also noted that the rejection of claims 1-29, 34-43 and 46-57 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 and 22 of co-pending application No. 09/732,386, in view of the aforementioned references has been repeated. Reconsideration is requested in view of the following remarks.

The primary Franklin reference is essentially directed to a license manager. Its title "Licensing Controller Using Network Directory Services" describes its basic functionality. More particularly, the specification and drawings are replete with mechanisms, such as flag 154, rights attributes 158, and other “basic functional attributes” that are referenced and/or modified to “control access” and/or “control a resource” of a software product (see, for example, the Abstract, Figs. 3 –13, column 2, lines 29-67 and column 3, lines 1-10). Thus, Franklin clearly affects operation of software.

Unlike Franklin, the present invention is not a license manager, and is not operable to affect operation of any software product identified in the knowledge base. Instead, the invention is a reporting tool that informs users of hardware and software product inventory and usage (on the one hand) and coordinated agreement information (on the other hand). Clearly the present claims are not directed to any system wherein the system itself constitutes the license manager as in Franklin, et. al.

With respect to the Examiner's assertion that "some of the data in the objects may be non-functional descriptive text fields which are non-executable" in Franklin, the Applicant acknowledges that virtually every license manager inherently includes at least some "non-functional" descriptive text fields. For example, license managers may have fields that identify individuals who would be permitted access to a particular piece of software. That information can be "deemed" to be both executable as well as non-executable, in the sense that it describes license terms and agreement information.

But the present claims differ fundamentally from the prior art because they are not related to affecting operation of software. The system per se is not a license manager. The Franklin reference which is relied upon as the primary reference for the rejection of each and every one of the independent claims in the application is a license manager and, as such, operates to control operation of licensed software. Therefore, each of the independent claims in the application and each of the dependent claims which imposes and includes limitations which are more specific than those that are found in the independent claims is submitted to be patentable over the prior art over record.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on June 1, 2005:

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Respectfully submitted,

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